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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,181	07/11/2003	Chien Lung Lee	LEEC3070/EM	3033
23364	7590	08/30/2005	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			BUI, LUAN KIM	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/617,181

Applicant(s)

LEE, CHIEN LUNG

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Drawings***

1. Figures 10 and 11 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because the sectional views X-X and Y-Y in Figure 1 should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view (MPEP 608.02(h)(3)). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3, 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

Art Unit: 3728

regards as the invention. The phrase "may be" in claims 3, 5 and 6 is vague and indefinite because it is not clear the structural limitation follows such as is positively recited.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Gallegos (5,275,277).

Gallegos discloses a drinking glass/toolbox (10) comprising a cylindrical body (19, 20) defined a hollow body and an outer surface having a plurality of concavities (18) for receiving lenses (26) and a base engaging with the bottom of the cylindrical body (Figures 6-7).

7. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Fleming (5,174,447).

Fleming discloses a toolbox (10) comprising a cylindrical body defined a hollow body and an outer surface (c, 12) having a plurality of concavities (36) for receiving tools and a base engaging with the bottom of the cylindrical body (Figure 1).

8. Claims 1-3, 5, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kramer (5,797,507). Kramer discloses a cylindrical container/toolbox (20) comprising a first housing (22A) having at least one first fastening device (32A) mounted on the side thereof, a second housing (22B) having at least one second fastening device (32B) mounted on the side

Art Unit: 3728

thereof, a base (Figure 3) engaging with the bottom of both the first housing and the second housing and a plurality of concavities (42-48) mounted on the outer surface of the first housing and the second housing. A cylindrical body is formed when the first fastening device engaged the second fastening device.

As to claim 2, a hinge (24) connected the first housing to the second housing.

As to claim 3, the container includes a handle (28).

As to claim 5, the shape of the first housing and the second housing may be arc-shaped.

As to claim 6, when the container rotates then the base rotates also.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer (5,797,507) in view of Hwang (6,186,352). Kramer discloses the cylindrical container/toolbox (20) with the handle as above having all the limitations of the claims except for the container comprises two lugs with holes being respectively mounted on the top of the first housing and the second housing. Hwang teaches a container (20, 30) including two lugs (31) with holes (32) configured to receive a handle (40, 41). It would have been obvious to one having ordinary skill in the art in view of Hwang to modify the container of Kramer so it includes two lugs with holes are respectively mounted on the top of the first housing and the second housing for receiving a

Art Unit: 3728

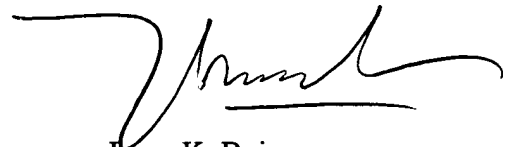
handle to facilitate carrying the container and because the selection of the specific handle such as the handle as disclosed by Kramer or the handle as claimed would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.

lkb  
August 28, 2005



Luan K. Bui  
Primary Examiner